### IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS MCALLEN DIVISION

UNITED STATES OF AMERICA,	§	
DI 1 .100	§	
Plaintiff,	Š	
	§	
V.	§	CASE NO. 7:20-CV-188
	§	
1.773 ACRES OF LAND, MORE OR LESS,	§	
SITUATE IN HIDALGO	§	
COUNTY, STATE OF TEXAS; AND	§	
JUAN MERCADO, ET AL.,	§	
	§	
	§	
Defendants.	§	

### **COMPLAINT IN CONDEMNATION**

- 1. This is a civil action brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through the Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Program Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security, for the taking of property under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.
- 2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1358.
- 3. The interest in property taken herein is under and in accordance with the authority set forth in Schedule "A."
- 4. The public purpose for which said interest in property is taken is set forth in Schedule "B."

5. The legal description and map or plat of land in which certain interests are being

acquired by the filing of this Complaint, pursuant to the Declaration of Taking, are set forth in

Schedules "C" and "D."

6. The interest being acquired in the property described in Schedules "C" and "D" is

set forth in Schedule "E."

7. The amount of just compensation estimated for the property interest being acquired

is set forth in Schedule "F."

8. The names and addresses of known parties having or claiming an interest in said

acquired property are set forth in Schedule "G."

9. Local and state taxing authorities may have or claim an interest in the property by

reason of taxes and assessments due and eligible.

WHEREFORE, Plaintiff requests judgment that the interest described in Schedule "E" of

the property described in Schedules "C" and "D" be condemned, and that just compensation for

the taking of said interest be ascertained and awarded, and for such other relief as may be lawful

and proper.

Respectfully submitted,

RYAN K. PATRICK

United States Attorney

Southern District of Texas

By: s N. Joseph Unruh

N. JOSEPH UNRUH

Assistant United States Attorney

Southern District of Texas No. 1571957

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JS 44 (Rev. 06/17)

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS			DEFENDAN	NTS	
`	of First Listed Plaintiff  **CCEPT IN U.S. PLAINTIFF CA  **Address, and Telephone Number	,	NOTE: IN LAN	ence of First Listed Defendant (IN U.S. PLAINTIFF CASES OF CONDEMNATION CASES, USE TRACT OF LAND INVOLVED.	<i>'</i>
II. BASIS OF JURISDI	CTION (Place an "X" in O	ne Box Only)	III. CITIZENSHIP O	F PRINCIPAL PARTIES	(Place an "X" in One Box for Plaintii
☐ 1 U.S. Government Plaintiff	☐ 3 Federal Question (U.S. Government)		(For Diversity Cases O		and One Box for Defendant)  PTF DEF  rincipal Place
☐ 2 U.S. Government Defendant	☐ 4 Diversity (Indicate Citizenshi)	ip of Parties in Item III)	Citizen of Another State	☐ 2 ☐ 2 Incorporated and of Business In	
			Citizen or Subject of a Foreign Country	□ 3 □ 3 Foreign Nation	□ 6 □ 6
IV. NATURE OF SUIT					of Suit Code Descriptions.
CONTRACT		RTS	FORFEITURE/PENAL		OTHER STATUTES
<ul> <li>□ 110 Insurance</li> <li>□ 120 Marine</li> <li>□ 130 Miller Act</li> <li>□ 140 Negotiable Instrument</li> <li>□ 150 Recovery of Overpayment &amp; Enforcement of Judgment</li> <li>□ 151 Medicare Act</li> <li>□ 152 Recovery of Defaulted Student Loans (Excludes Veterans)</li> <li>□ 153 Recovery of Overpayment of Veteran's Benefits</li> <li>□ 160 Stockholders' Suits</li> <li>□ 190 Other Contract</li> <li>□ 195 Contract Product Liability</li> <li>□ 196 Franchise</li> </ul> REAL PROPERTY <ul> <li>□ 210 Land Condemnation</li> <li>□ 220 Foreclosure</li> <li>□ 240 Torts to Land</li> <li>□ 245 Tort Product Liability</li> <li>□ 290 All Other Real Property</li> </ul>	PERSONAL INJURY  □ 310 Airplane □ 315 Airplane Product Liability □ 320 Assault, Libel & Slander □ 330 Federal Employers' Liability □ 340 Marine □ 345 Marine Product Liability □ 350 Motor Vehicle □ 700 Product Liability □ 360 Other Personal Injury □ 362 Personal Injury - Medical Malpractice  CIVIL RIGHTS □ 440 Other Civil Rights □ 441 Voting □ 442 Employment □ 443 Housing/ Accommodations □ 445 Amer. w/Disabilities - Uther Other □ 448 Education	PERSONAL INJURY  365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPER 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage Product Liability PRISONER PETITION Habeas Corpus: 463 Alien Detainee 510 Motions to Vacate Sentence 530 General 535 Death Penalty Other: 540 Mandamus & Othe 550 Civil Rights 555 Prison Condition 560 Civil Detainee - Conditions of Confinement	of Property 21 USC  of Property 21 USC  of 690 Other  TY LABOR  of 710 Fair Labor Standards Act  of 720 Labor/Management Relations  of 740 Railway Labor Act  of 751 Family and Medical Leave Act  of 790 Other Labor Litigation  of 791 Employee Retiremen Income Security Act  IMMIGRATION  of 462 Naturalization Applie	1	□ 375 False Claims Act □ 376 Qui Tam (31 USC 3729(a)) □ 400 State Reapportionment □ 410 Antitrust □ 430 Banks and Banking □ 450 Commerce □ 460 Deportation □ 470 Racketeer Influenced and Corrupt Organizations □ 480 Consumer Credit □ 490 Cable/Sat TV □ 850 Securities/Commodities/ Exchange □ 890 Other Statutory Actions □ 891 Agricultural Acts □ 893 Environmental Matters □ 895 Freedom of Information Act □ 896 Arbitration □ 899 Administrative Procedure Act/Review or Appeal of Agency Decision □ 950 Constitutionality of State Statutes
	moved from 3	Remanded from Appellate Court	Reopened A <sub>1</sub>	ansferred from	
VI. CAUSE OF ACTION			re filing (Do not cite jurisdictions	307	Directine
VII. REQUESTED IN COMPLAINT:	CHECK IF THIS UNDER RULE 2	IS A CLASS ACTION 3, F.R.Cv.P.	DEMAND \$	CHECK YES only JURY DEMAND	if demanded in complaint:
VIII. RELATED CASI IF ANY	(See instructions):	JUDGE		DOCKET NUMBER	
DATE		SIGNATURE OF ATT	TORNEY OF RECORD		
FOR OFFICE USE ONLY					_
RECEIPT# AM	MOUNT	APPLYING IFP	JUDO	GE MAG. JUI	DGE

### SCHEDULE A

### SCHEDULE A

### **AUTHORITY FOR THE TAKING**

The property is taken under and in accordance with 40 U.S.C. §§ 3113 and 3114, which authorize the condemnation of land and the filing of a Declaration of Taking; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, 110 Stat. 3009-546, 3009-554-55, as amended and codified at 8 U.S.C. § 1103(b) & note; and the Act of Congress approved May 5, 2017, as Public Law 115-31, div. F, tit. VI, 131 Stat. 135, which appropriated the funds that shall be used for the taking.

# SCHEDULE B

### SCHEDULE B

### PUBLIC PURPOSE

The public purpose for which said property is taken is to construct, install, operate, and maintain roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.

### SCHEDULE C

### **SCHEDULE C**

### LEGAL DESCRIPTION

Hidalgo County, Texas

Tract: RGV-MCS-2025-1 Owner: Juan Mercado, et al.

Acres: 1.773

**Being** a 1.773 acre tract (77,212 sq ft) parcel of land, more or less, being out of a called 4.160 acres, calculated as 4.173 acres, in Hidalgo County, Texas conveyed to Ochoa Sixto, Volume 1109, Page 751. Said parcel of land more particularly described by metes and bounds as follows;

**Starting** at COE Project control marker H100, having the following NAD83 (2011) Grid Coordinates N=16594788.77, E=1015646.60; Thence N 50°31'29" W a distance of 3943.81 feet to a found 4" iron pipe at the Northwest corner of the Ochoa Sixto tract, Volume 1109, Page 751 and the Northeast corner of the Texas Parks and Wildlife Department tract, Document Number 1993-313324, for the **Point of Commencement**, having the following coordinates: N=16597296.03, E=1012602.38.

Thence: S 08°29'14" W along the East line of the Texas Parks and Wildlife Department tract, Document Number 1993-313324 and the West line of the Ochoa Sixto tract, Volume 1109, Page 751, entering the I.B.W.C. Levee Right-of-Way File No. 30238-R-848H at 173.97 feet, to the North toe of the levee road, a distance of 191.05 feet to a set 5/8" x 36" iron rebar and EMC Inc. 3" aluminum cap stamped RGV-MCS-2025-1-1, for the **Point of Beginning**, having the following coordinates: N=16597107.07, E=1012574.18.

**Thence:** S 51°42'11" E departing said property line, departing said I.B.W.C. line, following along said toe, a distance of 205.81 feet to a set 5/8" x 36" iron rebar and EMC Inc. 3" aluminum cap stamped RGV-MCS-2025-1-2 for angle;

Thence: S 45°20'38" E along said toe, crossing the center of an existing 14 foot wide dirt road at 233 feet, crossing the center of County Road 2718 at 281 feet, a distance of 292.75 feet to a set 5/8" x 36" iron rebar and EMC Inc. 3" aluminum cap stamped RGV-MCS-2025-1-3=2026-1-3 for angle, said point being on the East line of the Ochoa Sixto tract, Volume 1109, Page 751 and on the West line of the Paula Ochoa ET AL tract, Volume 408, Page 8 and on the East line of the I.B.W.C. Levee Right-of-Way File No. 30238-R-848H;

### SCHEDULE C, cont'd

Thence: S 36°33'11" W along said property line, along said I.B.W.C. line, departing said toe, a distance of 24.99 feet to a set 5/8" x 36" iron rebar and EMC Inc. 3" aluminum cap stamped RGV-MCS-2024-1-5=2025-1-4=2026-1-2 for angle, said point being the Southeast corner of the Ochoa Sixto tract, Volume 1109, Page 751 and the Northeast corner of the Texas Parks and Wildlife Department tract, Volume 3385, Page 410 and on the West line of the Paula Ochoa ET AL tract, Volume 408, Page 8 and the Southeast corner of the I.B.W.C. Levee Right-of-Way File No. 30238-R-848H;

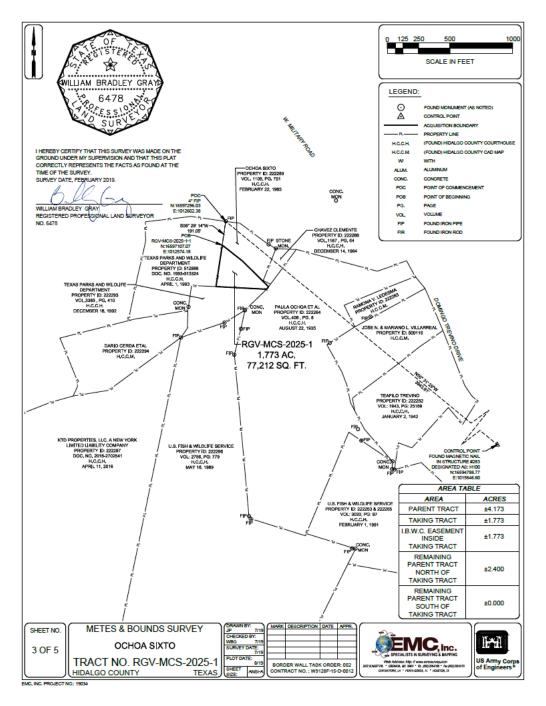
Thence: N 86°57'45" W along the South line of the Ochoa Sixto tract, Volume 1109, Page 751 and the North line of the Texas Parks and Wildlife Department tract, Volume 3385, Page 410 and the South line of the I.B.W.C. Levee Right-of-Way File No. 30238-R-848H, crossing the center of County Road 2718 at 22 feet, crossing the center of an existing wall at 85.64 feet, a distance of 405.20 feet to a set 5/8" x 36" iron rebar and EMC Inc. 3" aluminum cap stamped RGV-MCS-2024-1-4=2025-1-5 for angle, said point being the Southwest corner of the Ochoa Sixto tract, Volume 1109, Page 751 and the Southeast corner of the Texas Parks and Wildlife Department tract, Document Number 1993-313324 and on the North line of the Texas Parks and Wildlife Department tract, Volume 3385, Page 410 and the Southwest corner of the I.B.W.C. Levee Right-of-Way File No. 30238-R-848H;

Thence: N 08°31'32" E along the East line of the Texas Parks and Wildlife Department tract, Document Number 1993-313324 and the West line of the Ochoa Sixto tract, Volume 1109, Page 751 and the West line of the I.B.W.C. Levee Right-of-Way File No. 30238-R-848H, crossing the center of an existing wall at 230.17 feet, a distance of 335.61 feet, returning to the Place of Beginning.

## SCHEDULE D

### **SCHEDULE D**

### MAP or PLAT

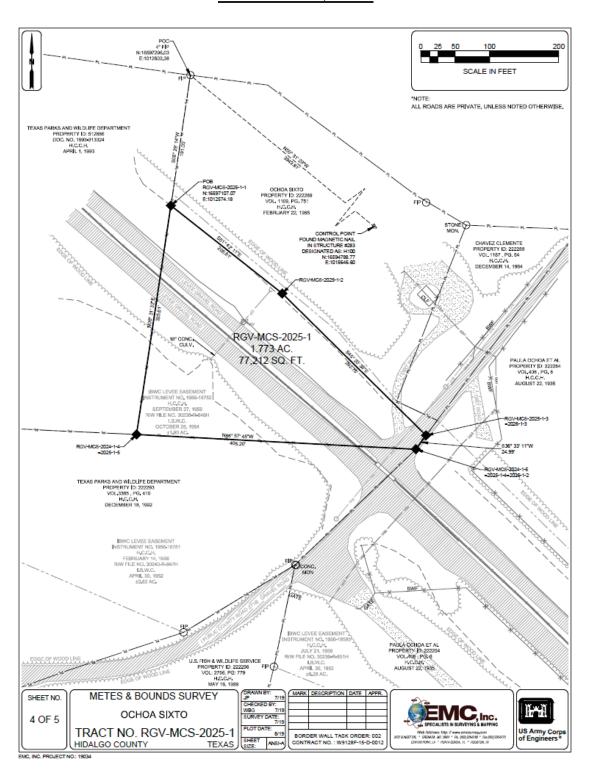


### LAND TO BE CONDEMNED

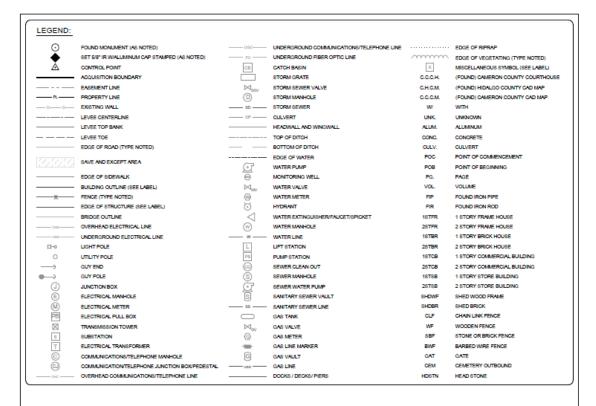
Tract: RGV-HRL-2025-1 Owner: Juan Mercado, et al.

Acreage: 1.773

### SCHEDULE D, cont'd



### SCHEDULE D, cont'd



### GENERAL SURVEYOR'S NOTES

- THE BEARINGS, DISTANCES AND COORDINATE VALUES SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, REFERENCED TO NAD 83(2011), TX SOUTH ZONE(4205), US SURVEY FEET, USING THE CORS(2011) ADJUSTNENT. THE DISTANCES AND COORDINATES SHOWN HEREON ARE GRID VALUES AND MAY BE CONVERTED TO GROUND (SURFACE) USING A SCALE FACTOR OF 0.9999912484 (E.G. GRID X 0.9999912484 = SURFACE).
- 2. A SEPARATE METES AND BOUNDS DESCRIPTION OF EQUAL DATE WAS WRITTEN
- IN CONJUNCTION WITH THIS SURVEY PLAT.

  3. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. THE SUBJECT PARCEL MAY BE SUBJECT TO RECORDED, UNRECORDED OR MIS-INDEXED INSTRUMENTS OR FACTS WHICH WOULD BE REVEALED BY A THOROUGH TITLE EXAMINATION.

  4. THE REMAINING ACREAGE OF THE PARENT TRACT WAS CALCULATED FROM THE
- RECORDED INSTRUMENTS AND/OR GIS INFORMATION PROVIDED BY THE COUNTY AND IS NOT BASED ON FIELD DIMENSIONS.
- EMC, INC. HAS PROVIDED THESE SURVEY SERVICES TO THE CORPS OF ENGINEERS AS THE PRIME CONSULTANT. THE CORPS CONTRACTING OFFICER'S
- REPRESENTATIVE IS STEPHEN CORLEY, RPLS (817) 886-11453.

  6. TEXAS 811 UTILITY LOCATE REQUEST WAS SUBMITTED FOR THIS SURVEY ON JULY 16, 2019 (TICKET NO. 1999705456).

  7. LONE STAR 811 UTILITY LOCATE REQUEST WAS SUBMITTED FOR THIS SURVEY ON
- JULY 16, 2019 (TICKET NO. 591991099)

MONUMENT TABLE				
MONUMENT NAME	NORTHING	EASTING		
RGV-MCS-2025-1-1	16597107.068	1012574.178		
RGV-MCS-2025-1-2	16596979.523	1012735.696		
RGV-MCS-2025-1-3=2026-1-3	16596773.765	1012943.939		
RGV-MCS-2024-1-5=2025-1-4=2026-1-2	16596753.692	1012929.058		
RGV-MCS-2024-1-4=2025-1-5	16596775.164	1012524.423		

SHEET NO. 5 OF 5

METES & BOUNDS SURVEY

OCHOA SIXTO

TRACT NO. RGV-MCS-2025-1 TEXAS SHEET SIZE: HIDALGO COUNTY

CHECKED BY WBG 7/19 SURVEY DATE: PLOT DATE: 8/19 BORDER WALL TASK ORDER: 002 CONTRACT NO.: W9128F-15-D-0012





### SCHEDULE E

### **SCHEDULE E**

### ESTATE TAKEN

Hidalgo County, Texas

Tract: RGV-HRL-2025-1 Owner: Juan Mercado, et al.

Acres: 1.773

The estate taken is fee simple, subject to existing easements for public roads and highways, public utilities, railroads, and pipelines; and subject to all interests in minerals and appurtenant rights for exploration, development, production and removal of said minerals;

Excepting and excluding all interests in water rights and water distribution and drainage systems, if any, provided that any surface rights arising from such water rights or systems are subordinated to the United States' construction, operation and maintenance of the border barrier.

### SCHEDULE F

### **SCHEDULE F**

### ESTIMATE OF JUST COMPENSATION

The sum estimated as just compensation for the land being taken is THREE THOUSAND ONE HUNDRED TEN DOLLARS AND NO/100 (\$3,110.00), to be deposited herewith in the Registry of the Court for the use and benefit of the persons entitled thereto.

## SCHEDULE G

### **SCHEDULE G**

### **INTERESTED PARTIES**

The following table identifies all persons who have or claim an interest in the property condemned and whose names are now known, indicating the nature of each person's property interest(s) as indicated by references in the public records and any other information available to the United States. See Fed. R. Civ. P. 71.1(c).

Interes	sted Party	Reference
1.	Juan Mercado	Affidavits of Heirship, documents #1995-
	Mississ T. 70570	434714, #1995-434715, #1995-434716;
	Mission, Texas 78572	filed February 8, 1995, Official Records of Hidalgo County
2.	Armando Mercado, Jr.	of Hadigo County
		Affidavit of Heirship, document #2005-
	Mission, Texas 78572	1443420; filed March 7, 2005, Official
	Maria Carlal as Massala	Records of Hidalgo County
3.	Maria Guadalupe Mercado Villarreal a/k/a Maria	
	Guadalupe Mercado Thomas	
	•	
	San Juan, Texas 78589	
4	Sylvia Mercado Vargas	
7.	Sylvia Melcado valgas	
	Mission, Texas 78572	
5.	Herlinda De Leon Mercado	Affidavit of Heirship, document #2005- 1443420; filed March 7, 2005, Official
	Mission, Texas 78572-1412	Records of Hidalgo County
	,	,
6.	Alejandro Mercado, Jr.	
	Mission, Texas 78572-1412	
	Wission, 1exas 70372-1412	
7.	The Unknown Heirs of Adelaida	Final Decree of Partition, documents
	Domingue z Ochoa	#1935-7758 and #1935-7759, recorded
	Address Unknown	September 26, 1935, volume 408, page 8;
		Official Records of Hidalgo County
8.	The Unknown Heirs of Sixto	Warranty Deed, document #1965-3553,
	Ochoa	recorded February 26, 1965; Official
	Address Unknown	Records of Hidalgo County

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9. Pablo "Paul" Villarreal, Jr. Hidalgo County Tax Assessor &	Taxing Authority	
Collector 2804 S. Business Highway 2881		
Edinburg, Texas 78539		